

REMARKS

Upon entry of the amendments claims 39-41 and 63-65, will be pending in the application. Claims 37-38 and 48-62 have been further cancelled without prejudice or disclaimer. Claims 39-41 have been amended to depend from new claim 63. Support for new claims 63-65 can be found in the specification at, e.g., page 2, line 29 - page 3, line 4 and page 69, Table 3. No new matter has been added.

35 USC 112, first paragraph

Claims 37-41, 48, 50, 54-55, 57, 59 and 61 are rejected for lack of written description. The rejection is traversed to the extent it is applied to the claims as amended.

New claim 63, from which the remaining pending claims depend, is drawn to a method of treating hyperglycemia in a subject by administering a gastrin compound of the formula $Z-Y_m-X-Tyr-Gly-Trp-Leu-Asp-Phe-NH_2$. The claim further specifies a limited number of substituents and thus encompasses a limited number of embodiments. Peptides encompassed by the invention now claimed are additionally disclosed and described in Table 3 at pages 38 and 39, see compounds O and Q. The specification thus reasonably conveys to one skilled in the art that the applicants had possession of the invention now claimed at the time the application was filed. Applicants request reconsideration and withdrawal of the rejection.

35 USC 112, second paragraph

Claims 37-41, 48, 50, 54-55, 57, 59 and 61 are rejected as indefinite for reciting an undefined coefficient n in claim 37 and for reciting “less than the frequency of native gastrin” in claim 38. Claims 37 and 38 have been cancelled, and the subject matter giving rise to the rejection does not appear in the newly added claims or amended claims. Thus, the rejection can be withdrawn.

35 USC 103(a)

Claims 37-41, 48, 50, 54-55, 57, 59 and 61 are rejected as unpatentable in view of Brand, US Patent No. 6,992,060 (“Brand”) in view of Bridon et al., US Patent No. 6,329,336 (“Bridon”). Applicants assume that the reference to 35 USC 102(b) and anticipation is inadvertent and that the intended rejection is under 35 USC 103(a). The rejection is traversed to the claims as amended.

Brand teaches that administration to a diabetic patient of both a gastrin receptor ligand and an EGF receptor ligand causes islet neogenesis in the subject and results in remission (*See*, Brand at column 2, lines 16-21). The Examiner acknowledges that Brand does not teach conjugating gastrin 17(leu) to human serum albumin.

Nothing in Briton supplements the Brand teaching to render the claimed invention obvious. Briton teaches conjugating insulintrophic peptides such as glucagon like peptide (GLP) and exendin 3 and exendin 4 to mobile blood proteins (*See*, Briton at column 1, lines 43-35). However, Briton neither teaches nor suggests administering gastrin (conjugated or unconjugated) for the treatment of diabetes nor does it provide any teaching or suggestion that would predict or demonstrate a reasonable expectation that the gastrin derivatives now recited in claim 63 would be effective in preventing hyperglycemia.

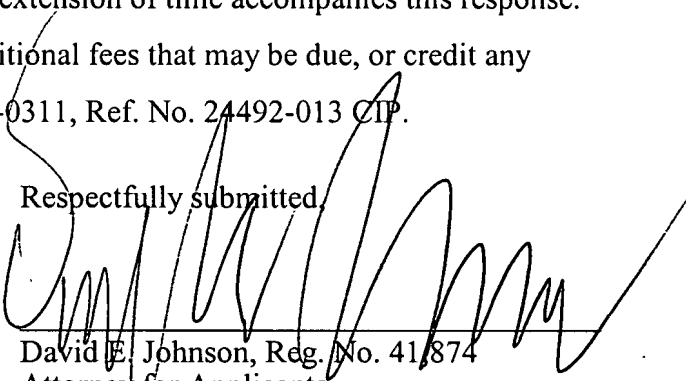
Applicant request reconsideration and withdrawal of this rejection.

Double Patenting

Claims 37-41, 48, 50, 54-55, 57, 59 and 61 are provisionally rejected for double patenting in view of claims 1-4, 7-10, 12-14, 24-26, 33-45, 101-107 and 110 copending Application No. 10/691,123. The rejection is traversed to the extent it is applied to the claims as amended. Applicants will submit a terminal disclaimer upon indication of allowable subject matter in this application.

Applicants submit that the claims are now in condition for allowance, and such action is respectfully requested. A petition for three-month extension of time accompanies this response. The Commissioner is authorized to charge any additional fees that may be due, or credit any overpayments of same, to Deposit Account No. 50-0311, Ref. No. 24492-013 CIP.

Respectfully submitted,



David E. Johnson, Reg. No. 41,874
Attorney for Applicants
c/o MINTZ LEVIN
Tel: (617) 542-6000
Fax: (617) 542-2241

Customer Number 30623

Dated: May 14, 2007